

RONALD R. SANTOS,)	
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Plaintiff(s),)	Case No. 2:11-cv-01251-KJD-NJK
)	
vs.)	ORDER DENYING MOTION TO
)	COMPEL
AWD ISIDRO BACA, et al.,)	
)	
Defendant(s).)	(Docket No. 71)
)	

The Court’s initial inquiry regarding a motion to compel is whether the movant made adequate meet and confer efforts. Federal Rule of Civil Procedure 37(a)(1) requires that a motion to compel discovery “must include a certification that the movant has in good faith conferred or attempted to confer” with the non-responsive party. Similarly, Local Rule 26-7(b) provides that “[d]iscovery motions will not be considered unless a statement of the movant is attached thereto certifying that, after personal consultation and sincere effort to do so, the parties have not been able to resolve the matter without Court action.”

The case law in this District is clear that “personal consultation” means the movant must “personally engage in two-way communication with the nonresponding party to meaningfully discuss each contested discovery dispute in a genuine effort to avoid judicial intervention.” *ShuffleMaster, Inc. v. Progressive Games, Inc.*, 170 F.R.D. 166, 171-72 (D. Nev. 1996). This obligation

1 “promote[s] a frank exchange between counsel to resolve issues by agreement or to at least narrow
2 and focus matters in controversy before judicial resolution is sought.” *Nevada Power v. Monsanto*,
3 151 F.R.D. 118, 120 (D.Nev.1993). To meet this obligation, parties must “treat the informal
4 negotiation process as a substitute for, and not simply a formal prerequisite to, judicial review of
5 discovery disputes.” *Id.* This is done when the parties “present to each other the merits of their
6 respective positions with the same candor, specificity, and support during the informal negotiations
7 as during the briefing of discovery motions.” *Id.* “Only after all the cards have been laid on the
8 table, and a party has meaningfully assessed the relative strengths and weaknesses of its position in
9 light of all available information, can there be a ‘sincere effort’ to resolve the matter.” *Id.* To ensure
10 that parties comply with these requirements, movants must file certifications that “accurately and
11 specifically convey to the court who, where, how, and when the respective parties attempted to
12 personally resolve the discovery dispute.” *ShuffleMaster*, 170 F.R.D. at 170.

13 Plaintiff did not file a certification in accordance with Local Rule 26-7(b). *See* Docket No.
14 71. Plaintiff claims that he is exempt from this requirement because the request would be futile and
15 the “documents do not currently exist.” *Id.*, at 3. However, Local Rule 26-7(b) does not provide
16 exemptions from the personal consultation requirement for discovery motions. Thus, Plaintiff has
17 not followed the Local Rules for the purposes of this motion. Accordingly, the motion to compel
18 is hereby **DENIED** without prejudice.

19 IT IS SO ORDERED.

20 DATED: November 5, 2014

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NANCY J. KOPPE
United States Magistrate Judge